

TENNESSEE GENERAL ASSEMBLY  
FISCAL REVIEW COMMITTEE



FISCAL MEMORANDUM

SB 83 - HB 73

March 27, 2015

**SUMMARY OF ORIGINAL BILL:** : Beginning July 1, 2015, regulation authority of all beauty pageant operators, health club operators, credit services businesses, and debt management services businesses will be transferred from the Consumer Affairs Division (CAD) to the Division of Regulatory Boards ("Division"), each located within the Department of Commerce and Insurance (TDCI). Authorizes the commissioner of TDCI to prescribe a fee against credit services businesses to offset the cost of administering bond receipts. Such fee may not exceed all necessary and required expenditures incurred in the administration of the bond receipts. Changes the date by which beauty pageant operators must annually register with the Division. Any health club, having maintenance of satisfactory registration (MSR) with TDCI prior to July 1, 2015, will maintain its MSR if the requirement for 5 years of satisfactory registration is met in nonconsecutive years, and furthermore, if the health club maintains satisfactory registration in 7 nonconsecutive years, it is exempt from posting a surety bond with TDCI.

FISCAL IMPACT OF ORIGINAL BILL:

Increase State Revenue - Exceeds \$500/Division of Regulatory Boards

Other Fiscal Impact - By transferring these programs to the Division of Regulatory Boards, each will now fall under the *Tennessee Governmental Entity Review Law*, pursuant to Tenn. Code Ann. § 4-29-121, which requires boards to be self-supporting over any-two year period. This transfer of duties between CAD and the Division will cause a shift in expenditures between these two divisions, but not net increase on overall state expenditures. Any revenue received in excess of expenditures will not revert to General Fund but will remain in the respective program's reserve account.

IMPACT TO COMMERCE OF ORIGINAL BILL:

Increase Business Expenses - Exceeds \$500

**SUMMARY OF AMENDMENT (005051):** Beginning July 1, 2015, regulation authority of all beauty pageant operators, health club operators, credit services businesses, and debt management services businesses will be transferred from the Consumer Affairs Division (CAD) to the Division of Regulatory Boards ("Division"), each located within the Department of Commerce and Insurance (TDCI). Respective of the impacted regulatory program, changes to current statute include:

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*Registered Beauty Pageant Operators*

- By rule, the Commissioner of TDCI may determine the set amounts required for surety bond and registration fees for beauty pageant operators. If no new rule is established, the current amounts levied go unchanged.
- Changes the date by which beauty pageant operators must annually register with the program.

*Registered Health Clubs:*

- By rule, the Commissioner of TDCI may determine the set amounts required for surety bonds, registration fees, renewal registration fees, and late renewal fees. If no new rules are established, the current amounts levied go unchanged.
- Any person that has entered a health club agreement that is not fulfilled by the health club operator may make a claim against the bond posts by such operator with TDCI.
- Any health club, having maintenance of satisfactory registration (MSR) with TDCI prior to July 1, 2015, will maintain its MSR if the requirement for 5 years of satisfactory registration is met in nonconsecutive years, and furthermore, if the health club maintains satisfactory registration in 7 nonconsecutive years, it is exempt from posting a surety bond with TDCI.

*Credit Services Businesses:*

- Pursuant to Tenn. Code Ann. § 47-18-1011, all credit services businesses are required to post a bond with the Department of Commerce and Insurance in order to provide a degree of protection for customers of such businesses.
- By rule, the Commissioner of TDCI may determine the set amount required for posted surety bonds. If no new rules are established, the current amount levied goes unchanged.
- Any person that has been awarded damages for private action against a credit services business may make a claim against the surety bond posted by such business with TDCI.
- A fee may be prescribed against credit services businesses to offset the cost of administering bond receipts. Such fee may not exceed all necessary and required expenditures incurred in the administration of the bond receipts.

*Debt Management Services Businesses:*

- Authorizes a debt management services entity to file an application for renewal registration within 30 days of such registration's expiration date. Currently, such registration fee must be filed within 30 - 60 days of such registration's expiration date.

**FISCAL IMPACT OF BILL WITH PROPOSED AMENDMENT:**

**Unchanged from the original fiscal note.**

Assumptions for the bill as amended:

- Based on information provided by the TDCI, a separate account will be created for each licensing program, respectively, for beauty pageant operators, health club operators, credit services businesses, and debt management services businesses

- There will not be a staff reduction or transfer of employees associated with this transfer of licensing programs from CAD to the Division.
- Currently, beauty pageant and health club operators have statutorily set application and registration fees. It is assumed the collection of these fees is sufficient to cover the administrative and oversight expenditures related to these programs.
- The commissioner of TDCI may levy a fee against credit service businesses to offset the cost of administering bond receipts; however, such fees may not exceed all necessary and required administrative expenditures. The amount the Division may levy is unknown; however, it is reasonably estimated that new fee will result in revenue exceeding \$500 and a subsequent increase in expenditures exceeding \$500.
- Authorizing the Commissioner of TDCI to set various fee and bond amounts by rule could result in an increase or decrease in revenue collected by the respective regulatory program. Any increase or decrease in any such fee or bond fee is unable to be quantified, but is estimated to be not significant.
- These licensing programs will be placed within the Division; therefore, fee schedules will be structured to cover the cost of administering the regulatory duties of each program. Pursuant to Tenn. Code Ann. § 4-29-121, all boards under the Division of Regulatory Boards are required to be self-supporting over any two-year period.
- Based on information provided by the Department of Finance and Administration, this transfer of duties is included in the base budget for FY15-16; however, it is not distinguishable as a line item expense. If the General Assembly does not enact this legislation, the Commissioner of Finance and Administration has the authority in the appropriation bill to undo this transfer when the Budget Office constructs the FY15-16 Work Program.

## **IMPACT TO COMMERCE WITH PROPOSED AMENDMENT:**

**Unchanged from the original fiscal note.**

Assumptions for the bill as amended:

- Pursuant to Tenn. Code Ann. § 47-18-1011, all credit services businesses are required to post a bond with the Department of Commerce and Insurance in order to provide a degree of protection for customers of such businesses.
- Currently, the bonds are collected by CAD but will now be collected by the Division.
- Credit services businesses may be required to pay a fee that covers the cost the Division will incur in handling and filing the receipts of surety bonds. The amount the Division may levy is unknown; however, credit services businesses are reasonably estimated to collectively incur tax deductible business expenses exceeding \$500.

## **CERTIFICATION:**

The information contained herein is true and correct to the best of my knowledge.

A handwritten signature in dark ink, reading "Jeffrey L. Spalding". The signature is fluid and cursive, with the first name "Jeffrey" and last name "Spalding" clearly legible.

Jeffrey L. Spalding, Executive Director

/jdb